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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Ricardo Lara, Chair  
2015 - 2016 Regular Session

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### AB 1342 (Steinorth) - Disability access

**Version:** July 16, 2015

**Urgency:** No

**Hearing Date:** August 17, 2015

**Policy Vote:** G.O. 12 - 0, JUD. 7 - 0

**Mandate:** Yes

**Consultant:** Mark McKenzie

**This bill meets the criteria for referral to the Suspense File.**

**Bill Summary:** AB 1342 would appropriate \$120,000 from the General Fund to the Commission on Disability Access (CDA) and require the CDA to establish two permanent positions. The bill would also permanently extend a \$1 fee on local business licenses that funds state and local activities related to certified access specialist (CASp) services, and make other changes to promote compliance with disability access requirements.

#### **Fiscal Impact:**

- One-time General Fund appropriation of \$120,000 in 2015-16 to support the establishment of 2 PY of permanent CDA staff positions. Ongoing costs for these positions would be \$240,000 annually, beginning in 2016-17. (General Fund)
- Ongoing costs of approximately \$135,000 annually to the Division of the State Architect (DSA), beginning in 2019, related to the conversion of a temporary position to permanent as a result of eliminating the sunset on the \$1 business license fee that supports CASp services. (General Fund)
- Minor and absorbable costs to the DSA to collect information on service locations of CASps and posting it on its website. (General Fund)
- Ongoing collection of approximately \$2.05 million in business license fee revenues annually, beginning in 2019, as a result of permanently extending the \$1 fee. Approximately \$616,000 of this amount is deposited into the Disability Access and Education Revolving Fund, and the remainder is retained at the local level.

**Background:** Individuals with disabilities and medical conditions have legal protections to ensure full and free access to and the use of roadways, sidewalks, buildings and facilities open to the public, hospitals and medical facilities, and housing. Additionally, under the Unruh Civil Rights Act, all persons, regardless of sex, race, color, religion, ancestry, national origin, disability or medical condition, are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments. After Congress enacted the Americans with Disabilities Act (ADA) in 1990, the Legislature provided that violations of the ADA are also violations of the Unruh Act.

Existing law establishes the CDA, an independent state agency composed of 17 members, to monitor disability access compliance and make recommendations to the

Legislature for necessary changes in order to facilitate implementation of state and federal laws on disability access. Existing law requires the State Architect to establish and publicize a program for the voluntary certification of any person who meets specified criteria to qualify as a CASp. Each applicant for CASp certification or renewal is required to pay specified fees for deposit into the Certified Access Specialist Fund, a continuously appropriated fund to support the DSA in administering the program.

Local agencies are required to employ or retain a sufficient number of building inspectors who are CASp to conduct inspections with respect to new construction. Existing law requires, until December 31, 2018, any applicant for a local business license to pay an additional \$1 fee. The local agency that collects the fee retains 70 percent of the fee revenues to fund increased CASp services and facilitate compliance with accessibility requirements, and the remaining 30 percent is transferred to the DSA for deposit into the Disability Access and Education Revolving Fund, a continuously appropriated fund that supports the oversight of the CASp program and moderates expenses related to certification and testing. Local agencies are required to report specified information to the DSA regarding the amount of fees collected, and activities undertaken and moneys spent to increase CASp services and facilitate compliance.

Existing law requires a commercial property owner to state on every lease form or rental agreement executed on or after July 1, 2013, whether the property being leased or rented has been inspected by a CASp, and if so, whether the property has been determined to meet applicable construction-related accessibility standards.

**Proposed Law:** AB 1342 would require the CDA to establish a permanent legislative outreach coordinator and educational outreach coordinator positions and appropriate \$120,000 from the General Fund to CDA to establish those positions in 2015-16. This bill would also do the following:

- Require applicants for certification and renewal of certification to provide DSA with information about the city or county in which the applicant provides or intends to provide services, and require the DSA to post that information on each CASp's service area on its website.
- Require CDA to post a link on its website to the DSA's CASp Program website to assist building owners and tenants in locating or hiring a CASp.
- Require CDA to make educational materials and information on disability access requirements available to state agencies and local building departments.
- Delete the December 1, 2018 sunset date on the additional \$1 fee on business license applications for local and state CASp services, thereby extending that fee in perpetuity.
- Require a commercial property owner, for every lease or rental agreement executed on or after July 1, 2016, to provide the lessee or tenant with a current disability access inspection certificate and inspection report, or a copy of the CASp inspection report, as specified.
- Require the property owner or lessor to include a specified statement on the rental agreement, if the subject premises have not been issued a current disability access inspection certificate. The statement must indicate that, upon request of the lessee or tenant, the property owner may permit a CASp inspection of the subject premises at the lessee's or tenant's expense, and that the parties must mutually agree on the time and manner of the inspection.

**Related Legislation:** AB 1608 (Corbett), Ch. 549/2008, established the CDA and enacted various other reforms to increase voluntary compliance with longstanding state and federal laws requiring access to the disabled in any place of public accommodation.

SB 1186 (Steinberg and Dutton), Ch. 383/2012, reduced statutory damages and provided litigation protections for specified defendants who timely correct construction-related accessibility violations of the Unruh Civil Rights Act. The bill also banned prelitigation “demands for money” and created rules for demand letters and complaints in claims involving construction-related accessibility violations.

**Staff Comments:** AB 1342 includes an appropriation of \$120,000 in 2015-16 from the General Fund to the CDA to establish the two outreach coordinator positions. This amount would cover half of the full-year costs of the salaries, benefits, and overhead from January 1, 2016 through the end of the fiscal year. The ongoing costs for those positions would be \$240,000 annually, which would be an ongoing expense from the General Fund beginning in 2016-17.

The bill would permanently extend the \$1 additional fee on local business licenses that supports specified local and state costs related to the CASp program. The 2015 Budget Act includes a temporary full-time position through the current expiration date of the \$1 fee for DSA’s costs to administer the activities related to the state portion of fee revenues. By eliminating the sunset on the fee, this bill would allow DSA to reclassify the current limited-term position to a permanent position, resulting in continued annual General Fund costs of approximately \$135,000, beginning on January 1, 2019.

By continuing the \$1 fee in perpetuity, the bill would impose a mandate on local agencies to continue to report specified information regarding the collection and expenditure of those fees to the DSA. The state is not responsible for reimbursing local agencies for these reporting costs because they have existing fee authority to offset any continued expenses.

**Recommended Amendments:** Amendments will be required to avoid chaptering out changes enacted to Government Code §4467 by SB 84 (Committee on Budget and Fiscal Review), Ch. 25/2015. SB 84 required local agencies to report to the DSA, rather than specified committees of the Legislature, on activities undertaken and expenditures related to additional \$1 fee on business licenses.

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